

September 16, 2003 CPC



**STAFF'S
REQUEST ANALYSIS
AND
RECOMMENDATION**

03SN0284

Poseidon Swimming, Inc.

**Midlothian Magisterial District
Western terminus of West Petty Road**

REQUEST: Conditional Use to permit a commercial indoor recreational establishment in an Agricultural (A) District.

PROPOSED LAND USE:

Indoor recreation consisting of indoor swimming pool, spectator areas and facilities customarily accessory to the indoor facility, as well as bingo facilities are proposed.

RECOMMENDATION

Recommend denial for the following reasons:

- A. The proposed zoning and land use do not conform with the Northern Area Plan which suggests that the property is appropriate for medium density residential of 1.51 to 4.0 units per acre.
- B. The application fails to comprehensively address land use transitions to the east that will ensure protection of the adjacent residential development.
- C. The application fails to address architectural compatibility standards within a nonresidential project, provision of adequate buffers adjacent to residential development and height limitations.

(NOTES: A. CONDITIONS MAY BE IMPOSED OR THE PROPERTY OWNER MAY PROFFER CONDITIONS.

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- B. IT SHOULD BE NOTED THAT THE PROFFERED CONDITIONS WERE NOT SUBMITTED AT LEAST THIRTY (30) DAYS PRIOR TO THE COMMISSION'S PUBLIC HEARING PER THE "SUGGESTED PRACTICES AND PROCEDURES." THE "PROCEDURES" SUGGEST THAT THE CASE SHOULD BE DEFERRED IF REPRESENTATIVES FROM THE AFFECTED NEIGHBORHOOD(S), STAFF AND THE COMMISSIONERS HAVE NOT HAD SUFFICIENT TIME TO EVALUATE THE AMENDMENTS. STAFF HAS HAD AN OPPORTUNITY TO THOROUGHLY REVIEW THE REVISED PROFFERS.)

PROFFERED CONDITIONS

The property owner and applicant in this conditional use request, for themselves and their successors or assigns, proffer that any development of the property under consideration ("the Property") for indoor recreational use shall be according to the following proffered conditions if, and only if, the conditional use is approved with only those conditions agreed to by the owner and applicant. In the event this request is denied or approved with conditions not agreed to by the owner and applicant, the proffers shall immediately be null and void and of no further force or effect.

1. No Timbering. With the exception of timbering which has been approved by the Virginia State Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices have been installed. (EE)
2. Public Wastewater System. The public wastewater system shall be used. (U)
3. Restricted Access. No access shall be permitted to or from the Property to Black Heath Road or West Petty Road. (T)
4. Building and Parking Area Location. Any building shall be located toward the eastern property line, with its longer dimension generally parallel to that property line, and parking shall not be permitted between such building and the eastern property line. This shall not preclude driveways to accommodate emergency access. Any building or parking area shall be set back at least 75 feet from the eastern property line and from the northern property line adjacent to Tax ID 736-710-3031. (P)
5. Uses. Uses shall be limited to indoor recreation consisting of indoor swimming pool, spectator areas, facilities customarily accessory to this indoor swimming facility, and bingo operations. (P)

6. Development Standards. Any development shall conform to the requirements of the Zoning Ordinance for Neighborhood Business (C-2) uses in Emerging Growth Areas, except that: (a) where the requirements of the underlying Agricultural (A) zoning are more restrictive, they shall apply; (b) no buffer shall be required adjacent to Tax ID 736-709-1439; (c) any height limitation for the C-2 district (currently contained in section 19-598 of the Zoning Ordinance) shall not apply; and (d) any architectural theme and compatibility requirements for commercial districts (currently contained in section 19-570(a) of the Zoning Ordinance) shall not apply.

A 50-foot buffer meeting the requirements of sections 19-520, 19-521, and 19-522 of the Zoning Ordinance shall be provided adjacent to Tax ID 736-710-3031 as long as that property is used for residential or agricultural uses. (P)

7. Transportation.

- (a) Public Access Road to Wal-Mart Way and Easement to Adjacent Property. If rezoning cases currently pending in the name of William P. Sowers Construction Co. (03SN0245) and Wal-Mart Stores East, L.P. (03SN0246) are approved with conditions requiring dedication and construction of a public loop road to serve those properties, as determined by the Transportation Department, then the following improvements shall be made to provide public road access from Wal-Mart Way to the Property and to the parcel identified as Tax ID 736-710-3031:

- (i) Prior to any final site plan approval for any development on the Property, a fifty (50) foot wide right of way for a special access street pursuant to Section 19-505(b) of the Zoning Ordinance extending from WalMart Way at the approximate location shown as "Point D" on Zoning Exhibit A ("Point D") to the common boundary line between the parcel identified on Zoning Exhibit A as Tax ID 736-709-3667 and the parcel identified as Tax ID 735-709-5944, including rights of way across the parcels identified as Tax ID 736-708-1856, 735-709-8503, and 736-709-1439 shown as "Point C" on Zoning Exhibit A ("Point C"), all as shown conceptually on Zoning Exhibit A (the "Special Access Street") shall be dedicated, free and unrestricted, to and for the benefit of Chesterfield County. The exact location of the Special Access Street shall be approved by the Transportation Department.
- (ii) Prior to issuance of an occupancy permit for any development on the Property, the Special Access Street shall be constructed as a two (2) lane road from Point D to Point C and approved for State acceptance, as determined by the Transportation Department.

The developer shall dedicate any additional right of way (or easements) required for this improvement (e.g. slope easements or temporary cul-de-sac), free and unrestricted, to and for the benefit of Chesterfield County.

- (iii) Prior to any site plan approval on the Property, an access easement, acceptable to the Transportation Department, shall be recorded across the Property and/or across the parcel identified as Tax ID 735-709-5944 from the loop road shown on Zoning Exhibit A ("Loop Road") to the parcel identified as Tax ID 736-710-3031, at a location acceptable to the Transportation Department. The recorded access easement shall include a condition that the easement may not be used by any portion of the parcel identified as Tax ID 736-710-3031 which uses Old Buckingham Road for access, it being the intention that no traffic from Old Buckingham Road shall be allowed to travel from Old Buckingham Road to the Loop Road.
 - (iv) In the event the developer is unable to acquire the right of way necessary for the Special Access Street as identified in Proffered Condition 6(a)(i) and (ii), the developer may request, in writing, the County to acquire such right of way as a public road improvement. All costs associated with the acquisition of the right of way shall be borne by the developer. In the event the County chooses not to assist the developer in acquisition of the "off-site" right of way, the developer shall be relieved of the obligations to acquire the "off-site" right of way, to construct the Special Access Street across the parcels identified as Tax ID 736-708-1856, Tax ID 735-709-8503, and Tax ID 736-709-1439, and to provide an access easement for the benefit of the parcel identified as Tax ID 736-710-3031.
- (b) Maximum Density. Development on the Property shall not exceed a 1,010 seat swimming pool facility or equivalent traffic density as determined by the Transportation Department consistent with the May, 2003 Revised Traffic Impact Analysis Report for the Wal-Mart Retail Center Expansion prepared by Ramey Kemp & Associates of Richmond, Inc., except that additional development beyond such maximum density may be approved by the Transportation Department upon completion of additional traffic analysis acceptable to the Transportation Department and provided that mitigating road improvements are constructed as determined by the Transportation Department. (T)

GENERAL INFORMATION

Location:

Western terminus of West Petty Road, approximately 150 feet west of Black Heath Road. Tax IDs 736-709-3667 and 4223 (Sheet 6).

Existing Zoning:

A

Size:

8.6 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - A; Single family residential or vacant

South - C-3; Commercial

East - R-15; Single family residential or vacant

West - O-2 with Conditional Use Planned Development, O-2 with Conditional Use and Conditional Use Planned Development or A; Public/semi-public (electric substation or communications tower) or vacant

UTILITIES

Public Water System:

There is an existing eight (8) inch water line extending along West Petty Drive in Olde Coach Village Subdivision that terminates adjacent to the eastern boundary of the request site. Use of the public water system is required by County Code.

Public Wastewater System:

There is an existing eight (8) inch wastewater collector extending along Walmart Way, approximately 750 feet southwest of this site. Use of the public wastewater system is intended. (Proffered Condition 2)

ENVIRONMENTAL

Drainage and Erosion:

The property drains west via storm sewer systems directly to Falling Creek. There are currently no on- or off-site drainage or erosion problems with none anticipated after development. The property is wooded and should not be timbered without first obtaining a land disturbance permit. This will insure that adequate erosion control measures are in place. (Proffered Condition 1)

Fire Service:

The Midlothian Fire Station, Company Number 5, and Forest View Volunteer Rescue Squad currently provide fire protection and emergency medical service. This request will have minimal impact on fire and emergency medical services.

Transportation:

The property, consisting of approximately 9.0 acres, is currently zoned Agricultural (A). The applicant is requesting a Conditional Use permit to allow a commercial indoor recreational facility to be developed on the property.

The applicant has submitted a map ("Zoning Exhibit A") that identifies the property, and depicts a conceptual loop road (the "Special Access Street") extending from Wal-Mart Way through the property and through several adjacent parcels. The purpose of the Special Access Street is to provide access to all the area properties generally bounded by Midlothian Turnpike (Route 60) to the south, Falling Creek to the west, Old Buckingham Road to the north and Olde Coach Village Subdivision to the east ("the Area"). The applicant has submitted a proffer regarding the dedication and construction of a section of the Special Access Street and the recordation of an access easement, which the County Attorney has indicated that it is not acceptable.

In accordance with the Development Standards Manual in the Zoning Ordinance, a traffic analysis is necessary to assist in evaluating the impact of this development. A traffic study, which satisfies the Transportation Department requirements for an analysis of the Area's traffic at anticipated build-out, was submitted. The applicant has proffered a maximum density on the property, consistent with the density analyzed in the traffic study (Proffered Condition 7. b.). The applicant proposes developing 1,010 seat swimming pool facility or other equivalent traffic generators. The proffer would allow the Transportation Department to approve additional development on the property, if an acceptable traffic analysis is provided.

The major development within the Area consists of a 117,258 square foot Wal-Mart store and a 134,020 square foot Sam's Club store. In conjunction with these developments an additional lane of pavement along Route 60 for their property frontage and intersection

improvements at Walmart Way/Route 60 were provided. It is anticipated that this development and the other new development in the Area could generate approximately 8,365 average daily trips. These vehicles will be distributed along Route 60, which had a 2001 traffic count of 42,085 vehicles per day. Traffic volumes along sections of Route 60 exceed its capacity, and drivers experience congestion especially during peak periods. Route 60 from Courthouse Road to Old Buckingham Road should be widened to six (6) lanes, and is identified as a priority on the Board of Supervisors' list of highway needs. No funds are included in the Virginia Department of Transportation's Six-Year Improvement Program for this improvement.

A stub road right of way was provided to the boundary of the property when the Olde Coach Village Subdivision was recorded. To address neighborhood concerns, the applicant has proffered that no access will be provided from the property through the Olde Coach Village Subdivision. (Proffered Condition 3)

Development must adhere to the Development Standards Manual in the Zoning Ordinance relative to access and internal circulation (Division 5). As previously stated, Zoning Exhibit A shows the proposed Special Access Street from Wal-Mart Way looping through the property and through several adjacent parcels. The applicant has proffered that if the pending zoning cases named Williams P. Sowers Construction Co. (03SN0245) and Wal-Mart Stores East, L. P. (03SN0246) are approved with conditions requiring dedication and construction of a public loop road to serve those properties, the developer will dedicate a fifty (50) foot wide right of way for and build a section of the Special Access Street (Proffered Condition 7. a.). Since the obligation to provide this road is dependent on future action by the Board of Supervisors, the County Attorney has advised that the proffer is not acceptable.

The specific section of the Special Access Street that may be constructed is identified on the Zoning Exhibit A and referenced by Points D and C. In conjunction with the development of the property, the Special Access Street may be dedicated and constructed from Point D to Point C. As proffered, it may be necessary for the developer to acquire right of way from three (3) adjacent parcels to construct this section of the Special Access Street. According to Proffered Condition 7. a., if the developer is unable to acquire the right of way for any of this improvement, the developer may request the County to acquire the right of way as a public road improvement. All costs associated with the acquisition will be borne by the developer. If the County chooses not to assist with the right of way acquisition, the developer will not be obligated to acquire the "off-site" right of way, and will only be obligated to construct the road within available right of way. This could result in the Special Access Street being constructed only across the subject property. If either of the pending rezoning cases is not approved with conditions about the public road, the developer will not be required to dedicate or construct any of the Special Access Street. The developer could then access the property from Wal-Mart Way through the Sam's Club property via a private driveway.

An undeveloped parcel, which fronts along Old Buckingham Road, is located on the north side of the property. The applicant has proffered that pending the approval of both rezoning cases with conditions about the public road, an access easement from the Special Access Street to that adjacent parcel will be recorded (Proffered Condition 7.a.iii.). The proffer requires that the access easement include a condition that the easement cannot be used if access for that adjacent parcel is also provided to Old Buckingham Road. This requirement would not allow traffic to travel from Old Buckingham Road to the Special Access Street.

Transit service along Route 60 could be in demand in the future. Staff recommends that in the event public transportation is ever provided in the area, a parking area would be provided for the pickup and discharge of passengers. The applicant is unwilling to commit a parking area for this use.

As written, the proffer regarding the Special Access Street and the access easement is not acceptable. Staff continues to discuss modifications to and/or additional proffers with the applicant's representative. Unless some agreement can be reached prior to the public hearing, the Transportation Department cannot support this request.

LAND USE

Comprehensive Plan:

Lies within the boundaries of the Northern Area Plan which suggests the property is appropriate for medium density residential uses of 1.51 to 4.0 units per acre (Reference attached "Compiled Land Use Plan"). One (1) of the goals of the Plan is to address land use transitions to ensure protection of the surrounding residential developments. This transition would promote decreasing land use intensities in and around the existing commercial development to the west so as to minimize traffic and other impacts upon surrounding neighborhoods and encourage compatibility in scale and quality of design.

Area Development Trends:

Properties to the north are zoned agriculturally and are developed as a single family residence or are currently vacant. Property to the south are zoned Community Business (C-3) and is developed for retail use (Sam's Club). Properties to the east are developed as part of the Olde Coach Village Subdivision. Properties to the west are zoned Corporate Office (O-2) and Agricultural (A) and are developed for public/semi-public uses (Dominion Power) or are currently vacant. It is anticipated that development adjacent to these existing commercial and public/semi-public uses (Sam's Club and Dominion Power) would provide appropriate land use transitions to these existing residential developments to the north and east, as suggested by the Plan.

Site Design:

The request property lies within an Emerging Growth Area. Development standards for this area are applicable only to properties zoned office, commercial or industrial. The applicant has proffered that, with some exceptions, development of the property for indoor recreational uses will conform to the requirements of the Zoning Ordinance for Emerging Growth Areas unless the requirements of the underlying Agricultural (A) standards are more restrictive (Proffered Condition 6). The Emerging Growth Area standards address access, parking, landscaping, architectural treatment, setbacks, signs, buffers, utilities and screening of dumpsters and loading areas.

Uses:

In addition to those uses permitted by right or with restrictions in the Agricultural (A) District, proffered conditions limit the indoor recreational uses permitted to indoor swimming pool, spectator areas and facilities customarily accessory to this indoor swimming facility as well as bingo facilities. (Proffered Condition 5)

Architectural Treatment:

Based upon compliance with Emerging Growth Area standards, no building exterior which would be visible to any A, R or O District or any public right of way may consist of architectural materials inferior in quality, appearance or detail to any other exterior of the same building. There is, however, nothing to preclude the use of different materials on different building exteriors, but rather, the use of inferior materials on sides that face adjoining property. No portion of a building constructed of unadorned concrete block or corrugated and/or sheet metal may be visible from any adjoining A, R or O District or any public right of way. No building exterior may be constructed of unpainted concrete block or corrugated and/or sheet metal. All junction and accessory boxes must be minimized from view of adjacent property and public rights of way by landscaping or architectural treatment integrated with the building served. Mechanical equipment, whether ground-level or rooftop, must be screened from view of adjacent property and public rights of way and designed to be perceived as an integral part of the building.

Currently, Emerging Growth Area standards require that architectural treatment of buildings, including materials, color and style, be compatible with buildings located within the same project. Compatibility may be achieved through the use of similar building massing, materials, scale, colors and other architectural features. As proffered, development on the subject property would not be required to achieve architectural compatibility with other neighboring non residential development served by the proposed extension of Wal-Mart Way as a loop road system (Proffered Condition 6). The purpose of this compatibility standard is to define an overall architectural theme for a project so as to provide visual harmony and continuity among

individual developments in lieu of a piecemeal, strip development appearance. Development on the request site should not be excluded from this requirement.

Building Height:

Proffered conditions require that building heights follow the limitations of the Ordinance for Agricultural (A) Districts in lieu of Emerging Growth Area standards for commercial districts (Proffered Condition 6). Emerging Growth Area standards would limit heights of buildings within 200 feet of any residential district to two (2) stories or thirty (30) feet, whichever is less, thereby providing a transition in building scale from commercial to residential developments. Development on the request site should not be excluded from this requirement.

Buffers and Screening:

The Zoning Ordinance requires that solid waste storage areas (i.e., dumpsters, garbage cans, trash compactors, etc.) on property which is adjacent to an A or R District be screened from view of such district by a masonry or concrete wall which is constructed of comparable materials to and designed to be compatible with the principal building that such area serves and that such area within 1,000 feet of any A or R Districts not be serviced between the hours of 9:00 p.m. and 6:00 a.m. In addition, sites must be designed and buildings oriented so that loading areas are screened from any property where loading areas are prohibited and from public rights of way.

Adjacent property to the north is zoned Agricultural (A) and is occupied by a single family dwelling. Based upon compliance with Emerging Growth standards, no buffer would be required adjacent to this use. Given the need to provide transition from the proposed recreational development to this residentially-occupied property, the applicant has proffered the provision of a fifty (50) foot buffer along this northern boundary as long as the adjacent property is used for residential or agricultural purposes. (Proffered Condition 6)

Adjacent properties to the east are zoned Residential (R-15) as part of the Olde Coach Village Subdivision. Based upon compliance with Emerging Growth standards for Neighborhood Business (C-2) Districts, proffered conditions would require a fifty (50) foot buffer adjacent to these properties (Proffered Condition 6). However, within the Community Business (C-3) District where indoor recreational uses are first permitted, the Ordinance requires the provision of a seventy-five (75) foot buffer adjacent to these residential properties. Given the intensity of this use, a wider visual separation consistent with Ordinance requirements should be provided between these uses. Further, at the time of site plan review, the Planning Commission may modify this buffer under certain circumstances. In addition, at such time that adjacent residential property is zoned or utilized for a non-residential use, the buffer can be further reduced or eliminated.

Adjacent property to the west is zoned Agricultural (A) and is currently vacant (Tax ID 736-709-1439). Based upon Emerging Growth Area standards, a seventy-five (75) foot buffer would be required adjacent to this parcel; however, given that this property is bordered by this proposed recreational use to the east and the Corporate Office (O-2) zoning to the west, the likelihood of this adjacent property being developed for residential uses is minimal. Therefore, the applicant has proffered that no buffer will be provided adjacent to this western parcel. (Proffered Condition 6)

It should be noted that conditions of zoning for the adjacent Dominion Power property (Tax ID 735-709-5944) require the provision of a seventy-five (75) foot buffer around the perimeter of the property if developed for uses other than an electric substation. A portion of the proposed loop road that will serve the subject property encroaches into this potential buffer area. This encroachment will necessitate Planning Commission approval through the site plan review process should the Dominion Power property be developed for any O-2 or office/warehouse uses.

Building and Parking Setbacks:

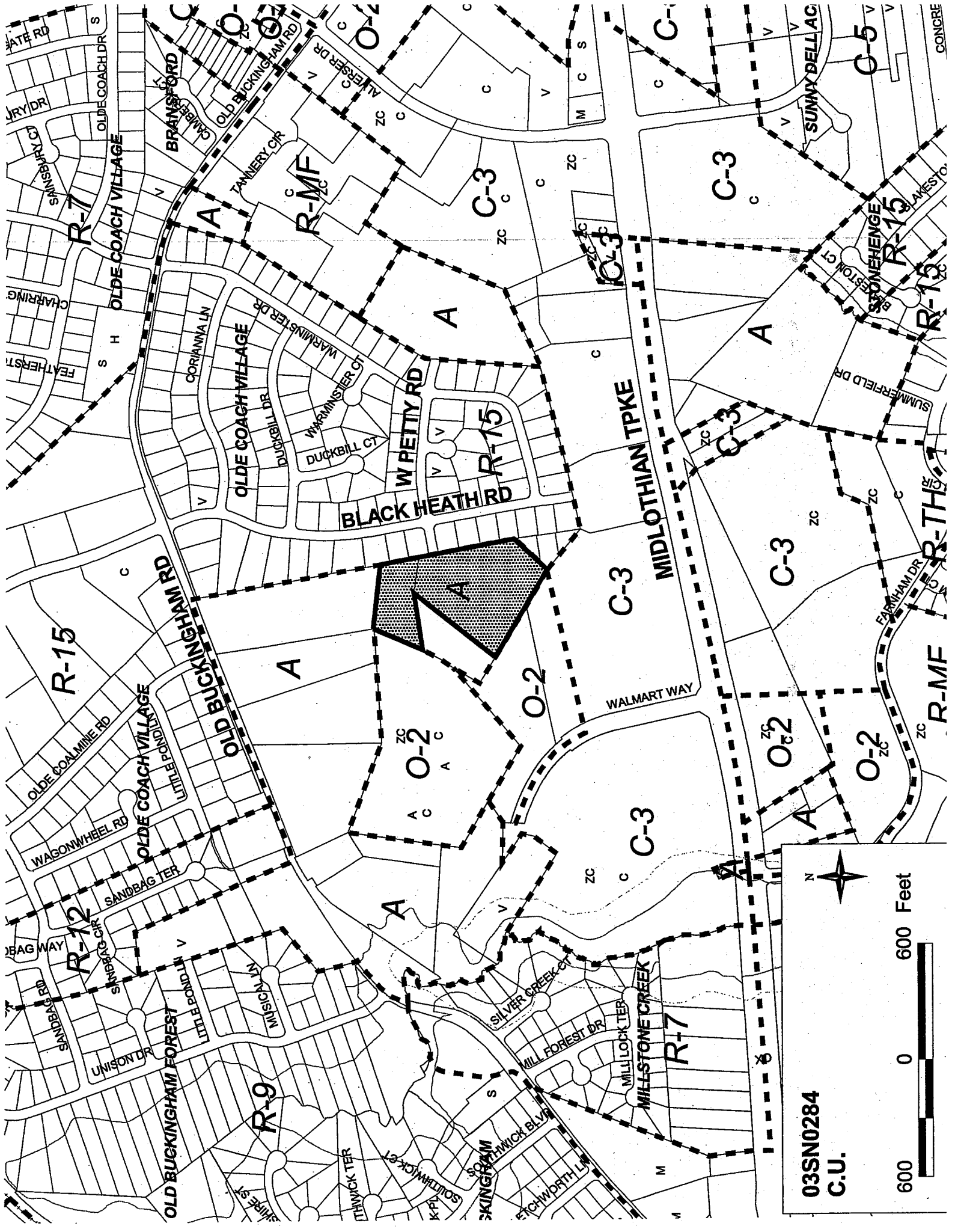
Based upon compliance with Emerging Growth Area standards, all buildings, driveways and parking areas must be set back a minimum of thirty (30) feet for side yards and a minimum of forty (40) feet for rear yards when adjacent to any A or R properties. To minimize the impact of these improvements upon properties to the north and east, the applicant has proffered a minimum setback of seventy-five (75) feet for these facilities. Further, buildings will be located towards the eastern property line and positioned to enhance visual separation between the eastern property line and any parking areas on the property. (Proffered Condition 4)

CONCLUSIONS

The proposed zoning and land use do not conform with the Northern Area Plan which suggests that the property is appropriate for medium density residential of 1.51 to 4.0 units per acre. The application fails to comprehensively address land use transitions to the east that will ensure protection of the adjacent residential development. Further, application fails to address architectural compatibility standards within a nonresidential project.

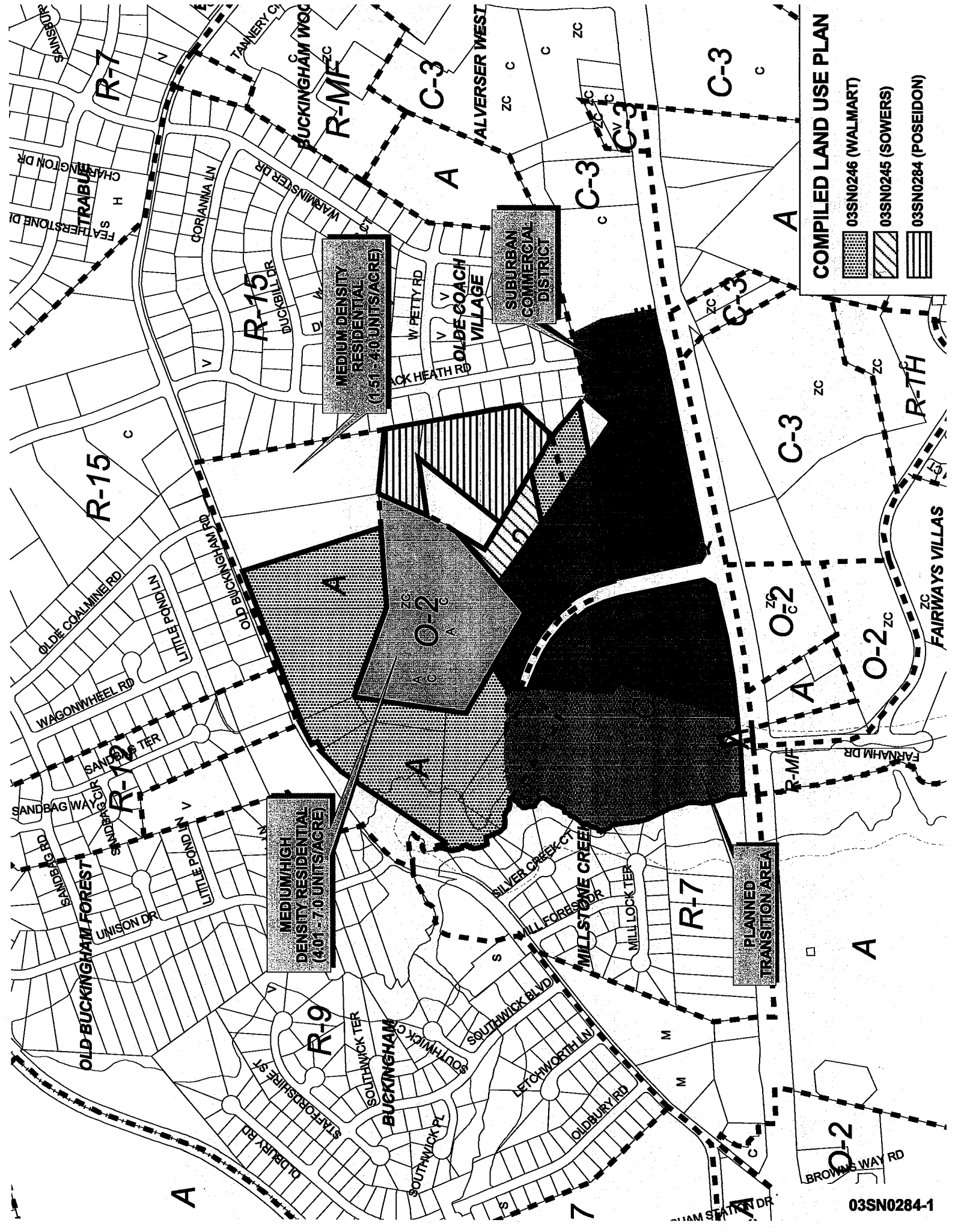
Given these considerations, denial of this request is recommended.

It should, however, be noted that this case, coupled with the pending cases for Wal-Mart (03SN0246) and William P. Sowers Construction Co. (03SN0245), could accomplish appropriate land use and transition while zoning and planning for the development of most of the remaining vacant property between Route 60 and Old Buckingham Road between Olde Coach Village and Millstone Creek. It would be important to address architectural compatibility, adequate buffers adjacent to residential development and height limitations.






03SN0284
C.U.





COMPILED LAND USE PLAN

-  03SN0246 (WALMART)
-  03SN0245 (SOWERS)
-  03SN0284 (POSEIDON)

MEDIUM DENSITY
RESIDENTIAL
(1.51 - 4.0 UNITS/ACRE)

MEDIUM/HIGH
DENSITY RESIDENTIAL
(4.01 - 7.0 UNITS/ACRE)

PLANNED
TRANSITION AREA

SUBURBAN
COMMERCIAL
DISTRICT

